

ST 00-0022-PLR 10/02/2000 EXEMPT ORGANIZATIONS

Sales by teacher-sponsored student organizations affiliated with an elementary or secondary school located in Illinois are exempt from Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.2006. (This is a PLR).

October 2, 2000

Dear Mr. Xxxxx:

This Private Letter Ruling, issued pursuant to 2 Ill. Adm. Code 1200 (see <http://www.revenue.state.il.us/legalinformation/regs/part1200>), is in response to your letter dated August 14, 2000. Review of your request for a Private Letter Ruling disclosed that all information described in paragraphs 1 through 8 of subsection (b) of the enclosed copy of Section 1200.110 appears to be contained in your request. This Private Letter Ruling will bind the Department only with respect to ORGANIZATION for the issue or issues presented in this ruling. Issuance of this ruling is conditioned upon the understanding that neither ORGANIZATION nor a related taxpayer is currently under audit or involved in litigation concerning the issues that are the subject of this ruling request.

In your letter, you have stated and made inquiry as follows:

On behalf of the ORGANIZATION operating at the # separate schools in District #, we hereby request a Private Letter Ruling pursuant to 2 Ill. Adm. Code 1200.110, regarding the applicability of the Illinois Retail Occupation Tax ('ROT') and/or the Illinois Use Tax ('Use Tax') to the transactions described herein. When necessary, reference has been made to the requirements of 2 Ill. Adm. Code 1200.100(4)(b)(1)-(8). (A Form IL-2848 'Power of Attorney' designating the undersigned as entitled to submit this ruling request on behalf of ORGANIZATION is attached hereto as Exhibit 1.)

The Requested Ruling

The ORGANIZATIONS request a Private Letter Ruling that the ORGANIZATIONS are allowed to administer the funds generated from sales by Teacher-Sponsored Student Organizations without incurring ROT liability. See IDOR Regulation, Section 130.2006(a).

Statement of Facts

ORGANIZATION is a not-for-profit association organized and existing under the laws of the State of Illinois. ORGANIZATION is organized exclusively for charitable and educational purposes within the meaning of Section 503(c) of the Internal Revenue Code and IDOR Regulation, Section 130.2005(a)(1)(D).

The ORGANIZATIONS are not separate legal entities, but are operated as divisions of the ORGANIZATION.. The ORGANIZATION do not have separate tax I.D. numbers, separate not-for-profit exemption numbers under Section 103.2007, or separate state reseller's certificates, and operate under the designations granted to ORGANIZATION. The ORGANIZATION have separate officers who manage their respective ORGANIZATION under the auspices of ORGANIZATION. While ORGANIZATION maintain separate bank accounts (all under the ORGANIZATION tax and not-for-profit designations), all state and federal tax matters and annual auditing functions are performed at the ORGANIZATION level.

The mission ORGANIZATION is to promote cooperation, understanding and communication between school and home and to facilitate District-wide activities for the maximum benefit of students. All parents and/or guardians of children enrolled in District # schools (and current District employees) are eligible for membership in ORGANIZATION. Membership is maintained at the ORGANIZATION level. Thus, both ORGANIZATION operating at the individual schools are composed of volunteers—parents, guardians, teachers, and other school personnel—who give generously of their time and talents to help their students and to facilitate the educational process in CITY's schools.

One of the principle functions of the ORGANIZATION is fund raising. Funds raised by the ORGANIZATIONS are used to purchase computers, audio-visual equipment, teacher supplies, demonstrative aids, books and a wide variety of things to benefit the schools and educational process. Funds raised by the individual ORGANIZATIONS are plowed back into the schools and have the effect of offsetting taxes that otherwise would be needed to acquire the same materials and services for the schools.

Analysis

Department Regulation, Section 130.2006(a) provides an exemption from ROT liability for sales by Teacher-Sponsored Student Organizations affiliated with an elementary or secondary school. While the exemption does not extend to direct sales by the school itself or the ORGANIZATION, there is no statutory prohibition on ORGANIZATIONS administering the funds derived from the exempted sales.

No reason exists why commingling ORGANIZATION funds and the monies collected by the Teacher-Sponsored Student Organizations should be prohibited. Allowing the student groups to deposit monies into ORGANIZATION accounts facilitates the administration of these funds as Teacher-Sponsored Student Organizations generally do not have bank accounts of their own. The purpose of Section 130.2006 is to exempt monies raised by student councils, student clubs, choral groups and the like from ROT liability; such monies will be reinvested back into school at which the organization is based, thus improving the school community as a whole. It therefore does not offend the policy behind the student organization exemption to allow the ORGANIZATION,

which are divisions of a not-for-profit charitable organization dedicated to improving the educational experience as a whole, to administer the funds generated from such sales.

To the best of the knowledge of ORGANIZATION, and the undersigned, the Department has not previously ruled on the same or a similar issue for the taxpayer or any predecessor and neither the taxpayer nor any representative has ever previously submitted the same or similar issue to the Department at any time, including any such request that may have been withdrawn prior to the issuance of a letter ruling. Besides the authorities listed above, we are aware of no other supporting or contrary relevant authorities within the meaning of 2 Ill. Admin. Code 1200(b)(5)&(6).

No audit or litigation is currently pending with the Department. No trade secret or other information need be deleted from the publicly disseminated version of the private letter ruling.

Conclusion

We respectfully request the Department issue a Private Letter Ruling that the ORGANIZATIONS are entitled to administer the funds raised from sales by Teacher-Sponsored Student Organizations which are exempt from ROT liability pursuant to IDOR Regulation, Section 130.2006(a).

If you have a contrary view, we would request the opportunity to discuss the matter with you further. Thank you for your assistance in this matter. If you have any questions or need additional information, please contact me at.

Sales by teacher-sponsored student organizations affiliated with an elementary or secondary school located in Illinois are exempt from Retailers' Occupation Tax. 35 ILCS 120/(6) (1998 State Bar Edition) and 86 Ill. Adm. Code 130.2006. "A teacher-sponsored student organization affiliated with a public elementary or secondary school" means an organization which collects and disburses monies as approved by the local Board of Education pursuant to the provisions of 23 Ill. Adm. Code 125. See Section 130.2006(b).

The determination as to whether ORGANIZATIONS are entitled to administer the funds raised from sales by teacher-sponsored student organizations is not within the jurisdiction of the Department. Since such organizations must collect and disburse monies as approved by the local Board of Education, the application of a tax statute or rule to the fact situation that you have presented is not warranted.

The facts upon which this ruling are based are subject to review by the Department during the course of any audit, investigation, or hearing and this ruling shall bind the Department only if the material facts as recited in this ruling are correct and complete. This ruling will cease to bind the

Department if there is a pertinent change in statutory law, case law, rules or in the material facts recited in this ruling.

I hope this information is helpful. If you have further questions concerning this Private Letter Ruling, you may contact me at (217) 782-2844. If you have further questions related to the Illinois sales tax laws, please visit our website at www.revenue.state.il.us or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Gina Roccaforte
Associate Counsel

GR:msk